

CERTIFIED FOR PUBLICATION
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION THREE

GRIFFIN DEWATERING
CORPORATION,

Plaintiff and Respondent,

v.

NORTHERN INSURANCE COMPANY
OF NEW YORK,

Defendant and Appellant.

G036896

(Super. Ct. No. 00CC04293)

ORDER DENYING REHEARING AND
MODIFYING OPINION; CHANGE IN
JUDGMENT

1. The petition for rehearing is denied.
2. The opinion, filed July 31, 2009, is hereby modified in the following particulars:

A. On page 50 of the slip opinion, in the last full paragraph, delete everything after the sentence that begins with “ Even so” and in its place substitute this language:

Even so, much has gone amiss, originating from the decision of the insured to press on with a punitive damages case after the insurer had fulfilled all of its duties under the contract and had even been willing to pay all of the attorney fees incurred by the insured to sue the insurer when the bad faith case was still in its infancy. With that decision, the case mushroomed and grew to almost incredible complexity; no wonder the

trial judge, in one of the myriad of motions in limine made by the parties made a single, but fateful error that only made the case more complex. It has taken much unmasking of that complex record to finally determine that the insurer acted reasonably, after all.

B. On page 51 of the slip opinion, delete the final sentence and in its place substitute the following sentence:

However, in light of the complexity of the record and the legal issues in the case, in the interests of justice each party will bear its own costs on appeal.

3. This modification does affect the judgment. (See Cal. Rules of Court, rule 8.264(c)(2).)

SILLS, P. J.

WE CONCUR:

BEDSWORTH, J.

ARONSON, J.